BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska Public Service Commission, on its own Motion, seeking to establish guidelines for the administration of the Nebraska Telephone Assistance Program.	**Application No. NUSF-2 Progression Order No. 9**

QWEST CORPORATION'S INITIAL COMMENTS

Qwest Corporation ("Qwest") submits its initial comments as directed by the Commission's Order Seeking Comment (the *"Order"*) dated September 27, 2005 as follows:

As the Commission implements and administers the NTAP program, care must be taken to avoid conflict with FCC rules and regulations. The FCC's rules do not specifically preclude a non-default state such as Nebraska from providing federal Lifeline credits to a group home or nursing home where a qualifying low-income customer is living. But those rules strongly suggest that: (1) the discounted service must be a residential service, (2) the discount must be passed through to the low-income customer, and (3) there cannot be more than one Lifeline service per qualifying consumer.

In the *Universal Service First Report and Order*, the FCC adopted different rules for federal default and non-default states. (Non-default states are those that provide their own Lifeline support, in addition to federal Lifeline support.) For default states, "the named subscriber to the local telecommunications service must participate in one of [the qualifying] assistance programs to qualify for Lifeline." 12 FCC Rcd 8776 ¶ 374 (1997). The FCC adopted this rule in the interest of administrative ease and avoiding fraud, waste, and abuse. The FCC rejected a suggestion that Lifeline eligibility in these states be based on participation in one of these programs by any member of a household. In contrast, for non-default states, the FCC allowed the state to determine the eligibility criteria for federal Lifeline, as long as those criteria are based solely on income or factors directly related to income. *Id.*, ¶ 373. Thus, it appears that Nebraska, as a non-default state, may allow a consumer to obtain federal Lifeline-subsidized service based on the qualification for such service of another member of the customer's household. Presumably, these households could include group homes and nursing homes.

Such Lifeline support is not without limits, however. The FCC's rules define Lifeline as "a retail local service offering . . . (1) [t]hat is available only to qualifying low-income consumers; (2) [f]or which qualifying low-income consumers pay reduced charges as a result of application of the Lifeline support amount described in § 54.403; and (3) [t]hat includes the services or functionalities enumerated [in the FCC's rules]." 47 C.F.R. § 54.401(a). Section 54.403 identifies four tiers of federal Lifeline support. Notably, Tier One support equals "[t]he tariffed rate in effect for the primary residential End User Common Line [EUCL] charge of the incumbent local exchange carrier serving the area in which the qualifying low-income consumer receives service." 47 C.F.R. § 54.403 (emphasis added). The FCC has interpreted these rules as providing a discount "off of the monthly cost of telephone service for a single telephone line in [an eligible telephone subscriber's] principal residence." (*In the Matter of Federal-State Joint Board*

On Universal Service; Smith Bagley, Inc., Petition for Waiver of Section 54.400(e) of the Commission's Rules, 20 FCC Rcd 7701 ¶ 2 (2005)) Thus, Lifeline support appears to be limited to a single residential telephone line for each qualifying customer.

Furthermore, the requirement that "qualifying low-income consumers pay reduced charges" (47 CFR § 54.401(a)) suggests that any discounts received by the telephone customer must be passed through to the qualifying low-income consumer. This would prohibit, for example, the discount from benefiting the owner of a group home or nursing home, or from benefiting non-qualifying residents of the same facility.

Qwest's current policy under existing state and federal rules is to allow one Lifeline discount per customer. A room (single or shared) in a nursing home, a bedroom in an adult care home, or even two or more individuals sharing an apartment or house can equate to the domicile being the principal residence for each subscriber for their assigned single telephone line. In most of these situations, the individual qualifies on their own financial /assistance status, the name on the account is their own, they alone are responsible for the charges for telephone service, and the service is solely for their use. The other residents' status has no impact of their qualification for Lifeline or other assistance programs, and Qwest does not preclude an individual receiving the benefit just because another resident received the benefit on his or her line.

Qwest suggests that if any rules or guidelines are implemented, the rules prevent two or more residents receiving a discount on the *same* line serving the residence, or a single subscriber from receiving the discount on *more than one line* in their name, whether at same location or one a line at a secondary residence. By way of illustration, as a qualifying adult care/nursing home resident would have their own line for their own use, their individual line should not be used to serve persons other than the qualifying resident. The main line for the nursing home or adult care home should not qualify for Lifeline, as that technically should be a business class of service line.

Therefore, in light of the FCC rules, the current NTAP rules, and Qwest policy, it is not advisable to open a rulemaking proceeding to allow NTAP support to be directed to benefit a federal public housing unit, nursing home, or group home collectively. The current rules make sure that qualifying individuals get support; changing the rules might permit owners of group homes or nursing homes to use some qualifying residents' support to subsidize phone service for non-qualifying residents, or perhaps even for the business of the facility itself.

Dated Wednesday, November 30, 2005.

Respectfully submitted,

QWEST CORPORATION

By: ____________________

Jill Vinjamuri-Gettman #20763
GETTMAN & MILLS LLP
10250 Regency Circle Suite 200
Omaha, NE 68114
(402) 320-6000
(402) 391-6500 (fax)
jgettman@gettmanmills.com

Timothy J. Goodwin
QWEST SERVICES CORPORATION
1801 California, Ste. 1000
Denver, CO 80202
303-383-6612
303-296-3132 (fax)
tim.goodwin@qwest.com

ATTORNEYS FOR QWEST CORPORATION